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**JUL 07 2006**

**OFFICE OF PETITIONS**

In re Application of	:
XI, MING et al	:
Application No. 09/678,266	: DECISION ON PETITION
Filed: October 3, 2000	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 004714	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED AS MOOT** for reasons stated below.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (A) An application for a design patent; (B) An application filed under 35 U.S.C. 111 (a) before November 29, 2000; or (C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

Since the instant nonprovisional application was filed on October 3, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the \$1370 fee is necessary. Applicant's deposit account has not been charged.

Any inquiries concerning this decision may be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2891 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks

Lead Petitions Examiner

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